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10/056,363	01/25/2002	Angel Janevski	us020007	8038

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EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/20/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/056,363

Applicant(s)

JANEVSKI, ANGEL

Examiner

Farzana E. Hossain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☒ Claim(s) 24-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/15/2006 has been entered.

Response to Amendment

2. This office action is in response to communications filed 11/15/2006. Claims 1-23 are cancelled. Claims 24-43 are new.

Response to Arguments

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Drawings

4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they are handwritten and/or hand drawn. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Digital Television System Having Alternative Content Based on User Preferences and Context.

A title should best describe the invention.

Claim Objections

6. Claims 24-43 are objected to because of the following informalities: The language of the claims is unclear with limitations such as "to select the select base

content segments and select alternative content segments..." One suggestion is: "to choose the select base content segments and the select alternative content segments."

7. Claim 27 is objected to because of the following informalities: The claim has a minor typo with alternative context segments, the Office assumes "context" to be -- content--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim uses the language "substantially temporally separated" which is vague and unclear as "substantially" is not defined in the applicant's specification. The Office assumes that "a second time interval that is substantially temporally separated from the first time interval" to be --a second time interval that is different from a first time interval--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 24-26, 28-32, 34-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Abecassis (US 5,953,485 and hereafter referred to as “Abecassis”).

Regarding Claims 24 and 37, Abecassis discloses a system and method comprising: a receiver that is configured to receive content material (Column 18, lines 43-50, Figure 5, 502), the content material including base content segments arranged in a first time sequence (Column 6, lines 25-33, Column 9, lines 55-67, Column 10, lines 1-5) and one or more corresponding alternative content segments (Column 6, lines 25-33, Column 9, lines 55-67, Column 10, lines 1-5), the alternative content segments being configured to selectively replace the base content segments in the first time sequence (Column 6, lines 25-33, Column 9, lines 55-67, Column 10, lines 1-5, Column 11, lines 7-14, Column 43-52),

a storage device that is configured to store base content segments and the alternative content segments (Column 19, lines 18-24, Column 22, lines 10-15, 52-57, Column 23, lines 33-39), and

an editor that is configured to compose a presentation sequence that includes select base content segments and select alternative content segments arranged in a second time sequence that differs from the first time sequence wherein the editor is configured to select the selected base content segments and selected alternative content segments based on a set of user preferences (Figure 1A, Figure 1B, Figure 4A, Figures 3A-D, column 11, lines 7-19, Column 21, lines 20-25, Column 22, lines 52-57).

Regarding Claims 25 and 38, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses the second time sequence differs from the first time sequence (Column 9, lines 55-67, Column 10, lines 51-52) by at least one of time duration of each sequence and a time order of each sequence (Column 11, lines 20-29).

Regarding Claims 26 and 39, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses the editor is configured to select the select base content segments and select alternative content segments on a current context associated with the user (Column 3, lines 56-65, Column 29, lines 16-23, Column 30, lines 53-67).

Regarding Claim 28, Abecassis discloses all limitations of Claim 24. Abecassis discloses the editor is configured to compose an alternative presentation sequence that includes an alternative arrangement of base content segments and alternative content segments based on alternative set of user preferences (Figure 4B, Column 3, lines 56-65, Column 29, lines 16-23, Column 30, lines 53-67).

Regarding Claims 29 and 40, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses an analyzer is configured to determine characteristics of one or more of the base content segments and alternative content segments, wherein the editor is configured to select the select base content segment and select alternative content segments based on the characteristics of the base content segments and alternative content segments (Figure 4A, Figure 1A, Figure 1B, Column 8, lines 59-67, Column 9, lines 1-14, Figures 3A-D).

Regarding Claims 30 and 41, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses that the editor is configured to select the select base content segments and select alternative content segments based on a time sensitivity associated with one or more of the base content segments and alternative content segments or news stories that are no longer deemed "current" (Column 37, lines 16-17).

Regarding Claims 31 and 42, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses that user preferences include a preferred duration for the presentation sequence (Column 36, lines 1-27).

Regarding Claims 32 and 43, Abecassis discloses all limitations of Claims 24 and 37 respectively. Abecassis discloses the editor is configured to dynamically modify the presentation sequence upon receipt of a subsequent base content segment or alternative content segment (Column 11, lines 30-52, Figure 7C, Figure 8).

Regarding Claim 34, Abecassis discloses all limitations of Claim 24. Abecassis disclose that the receiver is configured to receive the base content segments and alternative content segments from a plurality of sources (Column 20, lines 19-30, Figure 5, Column 18, lines 43-47, Column 7, lines 21-41, Column 36, lines 1-27, Column 28, lines 61-62).

Regarding Claim 35, Abecassis discloses all limitations of Claim 24. Abecassis disclose one or more of the select alternative content segments are configured to facilitate selection of other content segments or developments of certain types of news stories (Column 37, lines 16-17).

Regarding Claim 36, Abecassis discloses all limitations of Claim 24. Abecassis discloses that the base content segments are received during a first time interval or stored at a first time and one or more of the corresponding alternative content segments are received during a second time interval that is substantially temporally separated or different from the first time interval or substituting any alternative stories such as parallel segments that are no longer deemed "current" (Column 37, lines 16-17, Figures 3A-3D).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Cragun et al (US 2002/0087972 and hereafter referred to as "Cragun").

Regarding Claim 27, Abecassis discloses all limitations of Claim 24. Abecassis is silent on the editor is configured to determine a prioritization of the base content segments and alternative content segments and to select the select base content segments and select alternative content segments based on the prioritization. Cragun discloses editor is configured to determine a prioritization of the base content segments and alternative content segments and to select the select base content segments and

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select alternative content segments based on the prioritization (Page 2, paragraph 0030). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Abecassis to include configured to determine a prioritization of the base content segments and alternative content segments and to select the select base content segments and select alternative content segments based on the prioritization (Page 2, paragraph 0030) as taught by Cragun in order to provide the user with a broadcast of important segments if the user had a time duration issue (Page 3, paragraphs 0052-0055) as disclosed by Cragun.

14. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Barton et al (US 2005/0278747 and hereafter referred to as "Barton").

Regarding Claim 33, Abecassis discloses all limitations of Claim 24. Abecassis is silent on the presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments. Barton discloses presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments (Page 8, paragraphs 110-116). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Abecassis to include presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments (Page 8, paragraphs 110-116) as taught by

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Barton in order to provide a greater amount of flexibility to the content provider to replace program segments with new alternative segments (Page 1, paragraphs 0013-0015) as disclosed by Barton.

15. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Bassett et al (US 7,010,492 and hereafter referred to as "Bassett").

Regarding Claim 33, Abecassis discloses all limitations of Claim 24. Abecassis is silent on the presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments. Bassett discloses presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments (Column 8, lines 28-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Abecassis to include presentation sequence is configured such that one or more of the select alternative content segments are configured to overlay one or more of the select base content segments (Column 8, lines 28-65) as taught by Barton in order to provide more information to the user (Column 8, lines 28-65) as disclosed by Bassett.

Double Patenting

16. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

17. Claim 24 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of US 6,160,570 (Sitnik). Although the conflicting claims are not identical, they are not patentably distinct from each other

because they are broader in scope and therefore would unduly extend the time wise monopoly afforded to the other claims.

Regarding Claim 24 of the instant application, limitation "An system" is met by the limitation "A digital television system including a digital television receiver"" of US 6,160,570, as the system can be a digital system receiving content or a TV program with a digital TV receiver.

The instant application's limitation "a receiver that is configured to receive content material, the content material including base content segments arranged in a first time sequence" is met by the limitation a display processor for receiving video data contained and for providing the video data as a video sequence " of US 6,160,570, as the video sequence contains segments or portions and the display processor and receiver are receiving the video or segments.

The instant application's limitation "one or more corresponding alternative content segments, the alternative segments being configured to selectively replace the base content segments in the first time sequence" and "an editor that is configured to compose a presentation sequence that includes select base content segments and select alternative content segments" and "the editor is configured to select the select base content segment and select alternative content segments based on a set of user preferences" is met by "a controller for receiving video data corresponding to at least two alternative images, and for executing the process so as (i) to select on of the alternative images based on information stored in the user profile, and (ii) include the selected one of the alternative images within the video sequence, wherein the

alternative images comprise images of object in the video sequences, said selected image then appearing on the display integrally in picture frames of the video sequence” of US 6,160,570.

The instant application's limitation is missing “a memory for storing a user profile and computer executable process steps”, “a display for displaying the sequence of picture frames”, and “a controller executing the process steps stored in the memory. “ It would be obvious to modify the instant application to include the limitation found in US 6,160,570 as it is taught by prior art.

The instant application's limitation “a storage device that is configured to store the base content segments and alternative content segments” “a second time sequence that differs from the first time sequence” are additional features. It would have been obvious to modify US 6,160,570 to include the limitations as prior art discloses the limitations. Abecassis discloses a storage device that is configured to store base content segments and the alternative content segments (Column 19, lines 18-24, Column 22, lines 10-15, 52-57, Column 23, lines 33-39) and an editor that is configured to compose a presentation sequence arranged in a second time sequence that differs from the first time sequence wherein the editor is configured to select the selected base content segments and selected alternative content segments based on a set of user preferences (Figure 1A, Figure 1B, Figure 4A, Figures 3A-D, column 11, lines 7-19, Column 21, lines 20-25, Column 22, lines 52-57).

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Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
December 13, 2006


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